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UNCLAS SECTION 01 OF 05 ABU DHABI 004479

SIPDIS

JUSTICE FOR AFMLS, OIA AND OPDAT
TREASURY FOR FINCEN & EB/ESC/TFS
STATE FOR INL, NEA/ARP, NEA/RA

E.O. 12958: N/A
TAGS: KCRM EFIN KTFN AE
SUBJECT: 2006 INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT, UNITED ARAB EMIRATES: VOL. II: MONEY LAUNDERING & FINANCIAL CRIMES

REF: 157136

¶1. (U) The United Arab Emirates (UAE) is an important financial center in the Persian Gulf region. The UAE is still a largely cash-based society. However, the financial sector is modern and progressive. Dubai, in particular is a major international banking center. There is also a growing offshore sector. The UAE's robust economic development, political stability, and liberal business environment have attracted a massive influx of people and capital. Because of the UAE's geographic location and its role as the primary transportation and trading hub for the Gulf States, East Africa, and South Asia, and with its expanding trade ties with the countries of the former Soviet Union, the UAE has the potential to be a major center for money laundering. The large number of resident expatriates from the above regions, many of whom are engaged in legitimate trade with their homelands, or send remittances there, exacerbates that potential. Approximately 80 percent of the UAE population is comprised of non-nationals. Given the country's proximity to Afghanistan, where most of the world's opium is produced, narcotics traffickers are increasingly reported to be attracted to UAE's financial centers.

¶2. (U) Following the September 11 terrorist attacks in the United States, and amid revelations that terrorists had moved funds through the UAE, the Emirates' authorities acted swiftly to address potential vulnerabilities. In close concert with the United States, the UAE imposed a freeze on the funds of groups with terrorist links, including the Al-Barakat organization, which was headquartered in Dubai. Both federal and Emirate-level officials have gone on record as recognizing the threat money laundering activities in the UAE pose to the nation's security. Since 2001, the UAE Government (UAEG) has taken steps to better monitor cash flows through the UAE financial system and to cooperate with international

efforts to combat terrorist financing. The UAE has enacted two laws that serve as the foundation for the country's anti-money laundering (AML) and counterterrorist financing (CTF) efforts: Law No. 4/2002, the anti-money laundering law, and Law No. 1/2004, the counterterrorism law. The UAE also enacted Law No. 2 of 2006 the Cybercrimes law, which has articles dealing with money laundering and terrorist finance.

¶3. (U) Law No. 4 of 2002 criminalizes all forms of money laundering activities. The law calls for stringent reporting requirements for wire transfers exceeding $545 and currency imports above $10,900. The law imposes stiff criminal penalties (up to seven years in prison and a fine of up to 300,000 dirhams ($81,700), as well as seizure of assets if found guilty) for money laundering. It also provides safe harbor provisions for those who report such crimes. Although the anti-money laundering law criminalizes money laundering, it is administrative Regulation No. 24/2000 that provides guidelines for how financial institutions are to monitor for money laundering activity.

¶4. (U) This regulation requires banks, money exchange houses, finance companies, and any other financial institutions operating in the UAE to follow strict know your customer guidelines. Additionally, financial institutions must verify the customer's identity and maintain transaction details (including name and address of originator and beneficiary) for all exchange house transactions over $545 and for all non-account holder bank transactions over $10,900. The regulation delineates the procedures to be followed for the identification of natural and juridical persons, the types of documents to be presented, and rules on what customer records must be maintained on file at the institution. Other provisions of Regulation 24/2000 call for customer records to be maintained for a minimum of five years and further require that they be periodically updated as long as the account is open.

¶5. (U) On July 29, 2004, the UAE strengthened its legal authority to combat terrorism and terrorist financing, by passing Federal Law Number 1 of 2004 on Combating Terror Crimes (Law No. 1/2004). The law sets stiff penalties for the crimes covered, including life imprisonment and the death penalty. It also provides for asset seizure or forfeiture. Under the law, founders of terrorist organizations face up to life imprisonment. The law also penalizes the illegal manufacture, import, or transport of "non-conventional weapons" or their components, with the intent to use them in a terrorist activity.

¶6. (U) Law No. 1/2004 specifically criminalizes the funding of terrorist activities or terrorist organizations. Article 12 provides that raising or transferring money with the "aim or with the knowledge" that some or all of this money will be used to fund terrorist acts is punishable by "life or temporary imprisonment," whether or not these acts occur. Law No. 1/2004 grants the Attorney General (or his deputies) the authority to order the review of information related to the accounts, assets, deposits, transfer, or property movements on which the Attorney General has "sufficient evidence to believe" are related to the funding or committing of a terror activity stated in the law. The law also provides for asset seizure and confiscation. Article 31 gives the Attorney General the authority to seize or freeze assets until the investigation is completed. Article 32 confirms the Central Bank's authority to freeze accounts for up to seven days if it suspects that the funds will be used to fund or commit any of the crimes listed in the law. The law also allows the right of appeal to "the competent court" of any asset freeze under the law. The court will rule on the complaint within 14 days of receiving the complaint. Through 2005, there are no reported criminal convictions for money laundering or terrorist financing under either the 2002 or the 2004 laws.

¶7. (U) Law No. 1/2004 also sets up a "National Anti-Terror Committee" with representatives from the Ministries of Foreign Affairs, Interior, Justice, and Defense, the Central Bank, the State Security Department, and the Federal Customs Authority. The Committee serves as a UAE interagency liaison, implements UN Security Council Resolutions on terrorism, and shares information with its foreign counterparts as well as with the United Nations (UN).

¶8. (U) The UAE's National Anti-Money Laundering Committee (NAMLC)was

established in July 2000 and was codified into law by Law No. 4/2002. It is the body responsible for coordinating anti-money laundering policy. It is chaired by the Central Bank (CB) governor, with representatives from the Ministries of Interior, Justice, Finance, and Economy; the National Customs Board; the Secretary General of the Municipalities; the Federation of the Chambers of Commerce; and five major banks and money exchange houses (as observers).

¶9. (U) In July 2006 there were several amendments to Regulation 24/2000. First, the phrase "terrorism financing" was added to references to money laundering in the regulation. Terrorism financing is specifically criminalized in Law No. 1/2004 but this amendment added the term "terrorism financing" into the regulations. Second, regulation 24/2000 was amended requiring financial institutions to freeze transactions and notify the financial intelligence unit in writing, "in case of doubt" that it may be destined for terrorism, a terrorist organization or for terrorist purposes. Finally, there was a change in the due diligence requirements on charities which specifically required banks to have a certificate from the Minister of Social Affairs to open or maintain a charitable account.

¶10. (U) In 2006, the UAE also enacted Law No. 2 of 2006 -- the Cybercrimes law -- which has articles dealing with money laundering and terrorist finance. Article 19 of the law makes it a crime for anyone to use the internet to transfer money or property traceable to criminal proceeds, or to conceal the true sources of such assets. Violations are punishable by a term of imprisonment of up to 7 years and a fine ranging between $8,174 - $54,495. Article 21 of the law outlaws the use of the internet to finance terrorist activities, promote terrorist ideology, disseminate information on explosives or facilitate contact with terrorist leaders. Any violation of Article 21 is punishable by a term of imprisonment up to 5 years.

¶11. (U) The supervision of the UAE banking and financial sector (including banks, exchange houses, and investment companies) falls under the authority of the CB. The CB issues licenses to financial institutions under its supervision and can impose administrative sanctions for compliance violations. The CB issues instructions and recommendations as it deems appropriate and is permitted to take any necessary measures to ensure the integrity of the UAE's financial system. The CB has issued a number of circulars outlining the requirements for customer identification and providing for a basic suspicious transaction-reporting obligation.

¶12. (U) Law 4/2002 provided for the establishment of the Anti-Money Laundering and Suspicious Case Unit (AMLSCU), which is the UAE's financial intelligence unit (FIU) and is housed within the CB. Financial institutions under the supervision of the CB are required to report suspicious transactions to the AMLSCU, which is charged with examining them and coordinating the release of information with law enforcement and judicial authorities. It has the authority to request information from foreign regulatory authorities in carrying out its preliminary investigation of suspicious transaction reports. The AMLSCU-a member of the Egmont Group since June 2002-exchanges information with foreign FIUs on a reciprocal basis, and has provided information relating to investigations carried out by the United States and other countries. Since December 2000, the CB has referred 109 cases to foreign FIUs.

¶13. (U) From December 2000 to October 2006, the AMLSCU has received and investigated 3954 suspicious transactions reports (STRs). From December 2005 to October 2006, the AMLSCU received and investigated 829 STRs. One freeze order was issued in 2006 based on STR submissions, and from December 2000 to October 2006, the CB has issued 27 freeze orders based on AMLSCU and law enforcement investigations. Nine of those cases are in the process of prosecution for money laundering and confiscation of proceeds. The CB circulates to all financial institutions under its supervision the UNSCR 1267 Sanctions Committee's consolidated list of suspected terrorists and terrorist organizations. Since 2000, it has frozen $1,348,381 in 17 accounts based on the UNSCR 1267 list.

¶14. (U) Some money laundering in the UAE occurs in the formal banking system, including the numerous money exchange houses, but it is likely more prevalent in the informal and largely undocumented

hawala remittance system. The fact that hawala is an undocumented and nontransparent system, and is highly resilient despite enforcement and regulatory efforts, makes it difficult to control and an attractive mechanism for terrorist and criminal exploitation. The UAE issued regulations to improve oversight of the hawala system in 2002, when the CB required hawala brokers to register with the CB, submit the names and addresses of senders and beneficiaries, and to file suspicious transaction reports on a monthly or quarterly basis.

¶15. (U) As of November 30, 2006, the CB issued 201 licenses to hawaladars and another 38 applicants for hawala licenses are in the process of fulfilling Central Bank licensing requirements. The CB conducts one-on-one training sessions with each registered hawaladar to ensure the dealer understands the record-keeping and reporting obligations. There is no accurate estimate of the total number of UAE-based hawala brokers, and there is no penalty for failure of hawaladars to register.
The UAE has hosted three international conferences on hawala, with delegates including government officials, executives of supervisory institutions, banking experts, and law enforcement officials from the Middle East, United States, Latin America, Asia, and Europe. Speakers discussed ways to ensure hawala is regulated, without driving the system further underground. The Fourth International Conference on Hawala is expected to be held in the UAE in March
¶2007. This attention to hawala may be encouraging more people in the country to use regulated exchange houses. Representatives of money exchange business noted that their sector could transfer money anywhere, even to a private residence, for a fee competitive with hawala, persuading many to use the formal, and more secure, banking network.

¶16. (U) The UAE has set no limits on how much cash can be imported into or exported from the country. However, the UAE Central Bank requires that individuals declare cash imports above $10,900. The regulations provide customs services with the authority to seize undeclared cash. However, there are no reporting requirements for cash leaving the country. UAE authorities have the authority to seize undeclared cash and to investigate. However, the UAE lacks any administrative procedure for cash forfeiture. All cases must be dealt with through the courts. The UAE is a cash-based economy, and it is not unusual for people to carry significant sums of cash around. As such, customs officials, police, and judicial authorities tend to not regard large cash imports as suspicious or possibly criminal.

¶17. (U) The UAEG also has admitted the need to better regulate "near-cash" items such as gold, jewelry, and gemstones, especially in the burgeoning markets in Dubai. The UAE has participated in the Kimberley Process Certification Scheme for Rough Diamonds (KPCS) since November 2002, and began certifying rough diamonds exported from the UAE on January 1, 2003. In 2004, the UAE was the first KPCS participant country to volunteer for a "peer review visit" on internal control mechanisms.

¶18. (U) The Dubai Metals and Commodities Center (DMCC) is the quasi-governmental organization charged with issuing Kimberly Process (KP) certificates in the UAE, and employs four individuals full-time to administer the KP program. Prior to January 1, 2003, the DMCC circulated a sample UAE certificate to all KP member states and embarked on a public relations campaign to educate the estimated 50 diamond traders operating in Dubai concerning the new KP requirements. UAE customs officials may delay or even confiscate diamonds entering the UAE from a KP member country without the proper certificate.

¶19. (U) The Securities and Commodities Authority (SCA) supervises the country's two stock markets. In February 2004, it sent out anti-money laundering guidelines to brokers and the markets, instructing them to verify client information when opening accounts and created a reporting requirement for cash transactions above $10,900. The SCA also instructed the markets and brokers to file suspicious transaction reports for initial analysis before forwarding them to the AMLSCU for further action. The instructions also provide for a five-year record keeping requirement.

¶20. (U) Dubai's booming property market is also susceptible to money laundering abuse. In 2002, Dubai began to allow three real estate

companies to sell "freehold" properties to non-citizens. Several other emirates have followed suit. Abu Dhabi has passed a property law, which provides for a type of lease-hold ownership for non-citizens. Citizens of GCC countries can own and trade land within designated investment areas. Other expatriates can invest on a 99-year leasehold basis. The intense interest in these properties, and rumors of cash purchases, has sparked concerns about the potential for money laundering. As a result, developers have stopped accepting cash purchases, alleviating some of the concerns about money laundering activities in this sector of the economy.

¶21. (U) The UAEG is much more sensitive since September 11 to the oversight of charities and accounting for transfers abroad. In 2002, the UAEG mandated that all licensed charities interested in transferring funds overseas must do so via one of three umbrella organizations: the Red Crescent Authority, the Zayed Charitable Foundation, or the Muhammad Bin Rashid Charitable Trust. These three quasi-governmental bodies are in a position to ensure that overseas financial transfers go to legitimate parties. As an additional step, the UAEG has contacted the governments in numerous aid receiving countries to compile a list of recognized acceptable recipients for UAE charitable assistance.

¶22. (U) Oversight over charities has occurred on either a federal or emirate level. The UAE Ministry of Social Affairs licenses and monitors registered charities in Abu Dhabi and the northern emirates. Charities are required to keep records of donations and beneficiaries and submit annual reports to the Ministry. Charities in Dubai meanwhile are licensed and monitored by the Dubai Department of Islamic Affairs and Charitable Activities. However, there were charities, particularly in the Northern Emirates which registered with their local emirate and not the federal MSA. In July 2006 Regulation 24/2000 was amended requiring charities from all emirates to obtain a certificate from the Minister of Social Affairs to open or maintain bank accounts in the UAE, effectively requiring all charities to be registered federally. In November 2006 the UAE hosted a UK/GCC conference on charities and proposed holding biannual meetings with the UK and GCC on charities oversight. .

¶23. (U) The UAE has both free trade zones (FTZs) and financial free zones (FFZs). There are a growing number of free trade zones (FTZs), with 26 already in operation in Dubai and 6 other free zones in the other emirates. Every emirate except Abu Dhabi has at least one functioning FTZ. The free trade zones are monitored by emirate-level (as opposed to federal) authorities.

¶24. (U) There are over five thousand multinational companies located in the FTZs, with thousands of individual trading companies. The FTZs permit 100 percent foreign ownership, no import duties, full repatriation of capital and profits, no taxation, and easily obtainable licenses. Companies located in the free trade zones are treated as being offshore or outside the UAE for legal purposes. However, UAE law prohibits the establishments of shell companies and trusts, and does not permit non-residents to open bank accounts in the UAE. The larger FTZs in Dubai (such as Jebel Ali free zone) are well-regulated. Although it is not impossible that some trade-based money laundering occurs in the large FTZs, there is a higher potential for it in some of the smaller FTZs in the northern emirates.

¶25. (U) In March 2004, the UAEG passed Federal Law No. 8 Regarding the Financial Free Zones (FFZs) (Law No. 8/2004). The new law exempts FFZs and their activities from UAE federal civil and commercial laws, but subjects them and their operations to federal criminal laws including the Anti-Money Laundering Law No. 4/2002 and the Anti-Terror Law No. 1/2004. The new law and a subsequent federal decree also allowed for the establishment, in September 2004, of the UAE's first financial free zone (FFZ), known as the Dubai International Financial Center (DIFC). In September 2005, the DIFC opened its securities market-the Dubai International Financial Exchange (DIFX).

¶26. (U) Law No. 8/2004 limits licenses for banking activities in the FFZs to branches of companies, joint companies, and wholly owned subsidiaries, provided that they "enjoy a strong financial position and systems and controls, and are managed by persons with expertise and knowledge of such activity." The law prohibits companies licensed in the financial free zone from dealing in UAE currency

(dirham) or taking "deposits from the state's markets." It further stipulates that the licensing standards of companies "shall not be less than those applicable in the state." The law empowers the Emirates Stocks and Commodities Authority to approve the listing of any company listed on any UAE stock market in the financial free zone and the licensing of any UAE licensed broker. The law limits any insurance activity in the UAE carried out by a financial free zone company to that of reinsurance. It further gives competent authorities in the Federal Government the power to inspect financial free zones and submit their findings to the UAE cabinet. According to DFSA regulators, the DFSA due diligence process is a risk-based assessment that examines a firm's competence, financial soundness, and integrity.

¶27. (U) DIFC regulations provide for an independent regulatory body, the Dubai Financial Services Authority (DFSA), which reports to the office of Dubai Crown Prince and an independent Commercial Court. Observers called the independence of the DFSA into question in the summer of 2004, even prior to the inauguration of the DIFC, with the high profile firing of the chief regulator and the head of the regulatory council (the supervisory authority). Subsequent to the firing, Dubai passed laws which appear to give the DFSA more regulatory independence from the DIFC, although these laws have not yet been tested. The DFSA, whose regulatory regime is generally modeled after the United Kingdom system, is the only authority responsible for licensing firms providing financial services in the DIFC.

¶28. (U) The DFSA has licensed 94 financial institutions to operate within the DIFC. The DFSA's rules prohibit offshore casinos or internet gaming sites in the UAE. The DFSA requires firms to send suspicious transaction reports to the AMLSCU (along with a copy to the DFSA). To date, there have been 9 suspicious transaction reports issued from firms operating in the DIFC (8 in 2006). Although firms operating in the DIFC are subject to Law No. 4/2002, the DFSA has also issued its own anti-money laundering regulations and supervisory regime, creating some ambiguity as to the authority of the CB and AMLSCU within the DIFC. Discussions with the UAE Central Bank on a formal bilateral arrangement are ongoing. The DFSA has undertaken a campaign to reach out to other international regulatory authorities. As of December 2006, the DFSA has MOU's with 16 other regulatory bodies, including the UK's Financial Services Authority (FSA), the Emirates Securities and Commodities Authority, and the U.S. Commodity Futures Trading Commission (CFTC). The UAE is a party to the 1988 UN Drug Convention. The UAE has signed and recently ratified the UN Convention against Corruption, but has not ratified the UN Convention against Transnational Organized Crime. It has entered into a series of bilateral agreements on mutual legal assistance. The UAE is a party to all 12 UN conventions and protocols relating to the prevention and suppression of international terrorism. The UAE was very active in supporting the creation of the Middle East and North Africa Financial Action Task Force (MENAFATF) that was inaugurated in Bahrain in November 2004; the UAE was one of the original charter signatories.

¶29. (U) The UAEG has begun constructing a far-reaching anti-money laundering program, and it is considered a regional leader in these efforts. The UAE has sought to crack down on potential vulnerabilities in the financial markets and is cooperating in the international effort to prevent money laundering, particularly by terrorists. There has been a substantial improvement on behalf of the AMLSCU in the area of information sharing with other countries.

¶30. (U) However, there remain areas requiring further action. Law enforcement and customs officials should begin to take the initiative to recognize money laundering activity and proactively develop cases without waiting for referrals from the AMLSCU. There needs to be closer cooperation between the Central Bank and the DFSA. Additionally law enforcement and customs officials should conduct more thorough inquiries into large undeclared cash imports and required the declaration of exports from the country. UAE officials should give greater scrutiny to trade-based money laundering in all of its forms. The Central Bank should continue its efforts to encourage hawala dealers to participate in the registration program. The UAE should follow up with financial institutions and the MSA on recent tightening of the charities regulations to be sure that all the charities have registered, and

it should continue its efforts to regionally promote sound charitable oversight and engage in a public campaign to ensure all local charities are aware of the requirements. It should ratify the UN Convention against Transnational Organized Crime.

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